

## National Transportation Safety Board

## § 837.2

for desiring the testimony, and a showing that the information desired is not reasonably available from other sources.

(b) The General Counsel shall attach to his approval such reasonable conditions as he may deem appropriate in order that the testimony will be limited to the matters delineated in §835.3, will not interfere with the performance of the duties of the employees as set forth in §835.5, and will otherwise conform to the policies of this part.

(c) A subpoena shall not be served upon a Board employee in connection with the taking of his deposition.

### **§835.7 Testimony of former Board employees.**

It is not necessary to request Board approval for testimony of a former Board employee. However, the scope of testimony of former Board employees is limited to the matters delineated in §835.3, and use of reports as prescribed by §835.4.

### **§835.8 Procedure in the event of a subpoena.**

(a) If a Board employee has received a subpoena to appear and testify, a request for his deposition shall not be approved until the subpoena has been withdrawn.

(b) Upon receipt of a subpoena, the employee shall immediately notify the General Counsel and provide the data identifying the accident; the title of the case, the name of the judge, if available, and the title and address of the court; the type of accident (aviation, railroad, etc.); the date on which the employee is directed to appear; the name, address, and telephone number, if available, of the attorney representing the party who caused the issuance of the subpoena; the scope of the testimony, if known; and a statement as to whether a prior deposition on the same accident has been given.

(c) The General Counsel shall determine the course of action to be taken and will so advise the employee.

### **§835.9 Testimony in State or local investigations.**

Board employees may testify at a coroner's inquest, grand jury, or criminal proceeding conducted by a State or

local government. Testimony shall be limited to the matters delineated in §835.3.

## **PART 837—PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS**

Sec.

837.1 Purpose and scope.

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837.3 Published reports, material contained in the public accident investigation dockets, and accident database data.

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AUTHORITY: 49 U.S.C. 1101 *et seq.*; 40101 *et seq.*; 5 U.S.C. 301.

SOURCE: 62 FR 27703, May 21, 1997, unless otherwise noted.

### **§837.1 Purpose and scope.**

(a) This part sets forth procedures to be followed when requesting material for use in legal proceedings (including administrative proceedings) in which the National Transportation Safety Board (NTSB or Board) is not a party, and procedures to be followed by the employee upon receipt of a subpoena, order, or other demand (collectively referred to here as a demand) by a court or other competent authority or by a private litigant. "Material," as used in this part, means any type of physical or documentary evidence, including but not limited to paper documents, electronic media, videotapes, audiotapes, etc.

(b) The purposes of this part are to:

(1) Conserve the time of employees for conducting official business;

(2) Minimize the possibility of involving the NTSB in controversial issues not related to its mission;

(3) Maintain the impartiality of the Board among private litigants;

(4) Avoid spending the time and money of the United States for private purposes; and

(5) To protect confidential, sensitive information, and the deliberative processes of the Board.

### **§837.2 Applicability.**

This part applies to requests to produce material concerning information acquired in the course of performing official duties or because of the employee's official status. Specifically,